

REQUEST FOR FEDERAL WAIVER OF STATE LICENSURE REQUIREMENT FOR PROVIDER SPONSORED ORGANIZATIONS (PSO)

A. CORPORATE NAME : _____

(d.b.a.): _____

B. ADDRESS OF CORPORATION AND CONTACT PERSON

Corporation (Address)

(Not a Post Office Box)

Contact Person (Name and Address):

PHONE: (____) _____

(____) _____

FAX: (____) _____

(____) _____

C. REQUEST: We hereby request that the Secretary of the Department of Health and Human Services, pursuant to the authority granted under Section 1855 (a)(2)(A) of the Social Security Act, grant a waiver of the requirement that our Provider Sponsored Organization be licenced under (Name State) _____ state law as a risk-bearing entity eligible to offer health insurance or health benefits coverage.

D. CERTIFICATION : THE UNDERSIGNED OFFICER HAS READ THIS COMPLETED REQUEST FOR FEDERAL WAIVER FORM AND DOES HEREBY DECLARE THAT THE FACTS, REPRESENTATIONS, AND STATEMENTS MADE IN THIS FORM TOGETHER WITH ANY ATTACHED INFORMATION ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF. THE INFORMATION HEREIN DECLARED BY ME REPRESENT MATTERS ABOUT WHICH I AM COMPETENT, QUALIFIED, AND AUTHORIZED TO REPRESENT THE CORPORATION. IF ANY EVENTS, INCLUDING THE PASSAGE OF TIME, SHOULD OCCUR THAT MATERIALLY CHANGE ANY OF THE ANSWERS TO THIS REQUEST FOR FEDERAL WAIVER, THE CORPORATION AGREES TO NOTIFY THE HEALTH CARE FINANCING ADMINISTRATION IMMEDIATELY.

WITNESS/ATTEST

CORPORATE NAME: _____

By: _____

Name: _____ (Print Name)

Title: _____

E. INSTRUCTIONS If you have any questions regarding this form please contact:

Greg Snyder (410/ 786-0329).

Section A: Please enter your corporate name and the name under which your PSO will do business.

Section B: Please enter the street address, telephone number and facsimile number of the Corporation at its corporate headquarters and the name and address of a contact person.

Section C : Please indicate the state for which you are requesting a waiver.

Section D: Please have a duly appointed corporate officer sign this form in the presence of a witness.

F. NUMBER OF COPIES: Send 3 copies of this waiver request form to the following address:

**Health Care Financing Administration,
CHPP/HPPA, 3-18-13 South Building
7500 Security Boulevard
Baltimore, Maryland 21244-1850**

(THIS SECTION FOR OFFICIAL USE ONLY)

REQUEST FOR FEDERAL WAIVER OF STATE LICENSURE REQUIREMENT FOR PROVIDER SPONSORED ORGANIZATIONS

I. PURPOSE

This waiver request form is for use by provider sponsored organizations (PSOs) that wish to enter into a contract with the Health Care Financing Administration (HCFA) to provide prepaid health care services to eligible Medicare beneficiaries without a state risk-bearing entity license. This form should only be filed with HCFA if the PSO has submitted an application for a risk-bearing entity license with the state where it anticipates doing business and it can demonstrate that it is eligible for a waiver based on one of the grounds outlined in section III below. This form may also be filed without application to the state if the state has notified the PSO that it would not act on such application. Since the waiver is only effective with respect to a single state, those entities that wish to operate in more than one state without a license should submit separate waiver requests for each state.

Approval of a waiver request, in no way suggests, that the organization is approved for a Medicare contract with HCFA. Following approval of this waiver request, the organization will be required to submit a Medicare contract application that demonstrates that the organization can meet the Federal definition of a PSO, PSO solvency standards, and all other applicable Medicare requirements.

Organizations that are denied a waiver may re-submit a request at anytime through November 1, 2002, at which time the waiver authority terminates. Approved waivers are for a maximum of a 36 month period and cannot be renewed. **THE WAIVER WILL AUTOMATICALLY BE TERMINATED IF THE PSO OBTAINS STATE LICENSURE OR THE MEDICARE CONTRACT IS TERMINATED.** By the end of the three-year waiver period the PSO must be state-licensed if it wishes to continue in the Medicare+Choice program.

II. AUTHORITY / BACKGROUND

The Balanced Budget Act (the Act) of 1997, Public Law 105-33 was enacted August 5, 1997 and created a new Part C within Title XVIII of the Social Security Act. This part, entitled the Medicare+Choice Program, significantly expands the managed care choices available to Medicare beneficiaries. Section 1851(a)(2) of the Act explicitly provides for participation of PSOs in the Medicare+Choice program.

Generally, a Medicare+Choice organization must be organized and licensed under state law as a risk-bearing entity eligible to offer health insurance or health benefits coverage in each state in which it has entered into a contract with HCFA. However, section 1855(a)(2) of the Act allows a PSO to obtain a Federal waiver from state licensure under any of the conditions specified in the Act and outlined in section III of this document. Organizations seeking a waiver from state licensure should review federal regulations on definitional requirements for PSOs and PSO financial solvency.

III. WAIVER ELIGIBILITY

The following constitute the sole grounds for approving a waiver of the state licensure requirement. Please indicate the grounds upon which your PSO is requesting a waiver (check all applicable areas):

- _____ The State has failed to complete action on a licensing application of the organization within 90 days of the date of the State's receipt of a substantially complete application [§1855(a)(2)(B)].
- _____ The standards or review process imposed by the State as a condition of approval of the license imposes any material requirements, procedures, or standards to such organizations that are not generally applicable to other entities engaged in a substantially similar business [§1855(a)(2)(C)(I)].
- _____ The State requires the organization, as a condition of licensure, to offer any product or plan other than a Medicare+Choice plan [§1855(a)(2)(C)(ii)].
- _____ The State denied the licensing application based on the organization's failure to meet solvency requirements or documentation, information, and other material requirements, procedures, or standards relating to solvency and there is a difference between these State requirements, procedures or standards and Federal solvency requirements [§1855(a)(2)(D)].
- _____ The appropriate State licensing authority has notified the organization in writing that it will not accept their licensure application [CFR§422.372(d)].

IV. INFORMATION TO BE INCLUDED IN THIS REQUEST

While the applicant should provide information concerning each of the following areas, the specific information and documentation requested below are not necessarily all inclusive for HCFA to approve or deny the request. Applicants should provide any information and all documentation necessary to substantiate their request.

- (a) Provide a written summary of the PSO entity or, if a line of business, a description of the entire organization. Also include information about management structure and the health care provider or group of affiliated health care providers that control the PSO. Discuss legal history, predecessor corporations, recent mergers or re-organizations, recent change-of-ownerships; any state licenses held, any previous or current contractual involvement with the Medicare program either directly with HCFA or by contract with an HMO.
- (b) Provide a narrative of the circumstances leading to the PSO's eligibility for a waiver based on one of the grounds listed in section III. Include information about the state risk-bearing entity license for which the PSO applied, the application process that the PSO followed, and any relevant interaction with the state.

(c) Provide documentation to substantiate the narrative required in (b). Depending on the grounds for waiver eligibility, this documentation should include but is not necessarily limited to the following:

1. Evidence of a State's failure to act on a licensure application on a timely basis. Copy of the dated cover sheet to the application submitted to the state, state confirmation of the receipt and completeness of the application, state requests for additional information, all pertinent correspondence with the state relating to the status of the application, etc.

2. Evidence of denial of the application based on discriminatory treatment. Copy of denial letter from the state, copy of "discriminatory" material requirements (including, state laws and regulation), procedures or standards to which the PSO was required to comply that are not generally applicable to other entities engaged in a substantially similar business, a copy of state licensure requirements that the PSO offer a particular product or plan in addition to a Medicare+Choice plan, and any supplemental material received from the state explaining their rationale for the denial, etc.

PSO's seeking a waiver on the grounds that they are subject to requirements, procedures and standards not applicable to entities engaged in a "substantially similar business" must demonstrate through submission of these and other appropriate materials:

a) The types of entities subject to the different requirements, procedures and standards are engaged in a "substantially similar business".

b) The state requirements, procedures and standards imposed on the PSO entity are not applicable to other "substantially similar business" entities.

3. Evidence of denial of the application based on solvency requirements. Copy of denial letter from state, copy of state solvency requirements, demonstration of the difference between state solvency requirements, procedures and standards and Federal PSO solvency requirements, procedures and standards, any state information regarding documentation, information, and other material requirements, procedures or standards relating to solvency, or correspondence detailing the reason the application was denied, etc.

(d) Provide the name, address and telephone number of all state regulatory officials involved in the state application and/or denial proceedings.

(e) Please cite and describe any current PSO laws and/or legislation in the state.

(f) Briefly describe the proposed service area including counties and major cities. It is not necessary at this time to include maps. Note: if the organization plans on providing services in more than one state where it is not licensed, it will have to file a separate waiver request for each state.

(g) Provide any other information that you believe supports your request for a waiver under section III.

V. OVERVIEW OF WAIVER REQUEST PROCESS

Section 1855(a)(2)(F) of the Act requires the Secretary to grant or deny this waiver request within 60 days after the date the Secretary determines that a substantially complete application has been filed. Upon receipt of a waiver request, HCFA will review it to determine whether it contains sufficient information to approve or deny the request. The 60 day review period begins at the time HCFA determines that the applications is substantially complete. For those applications deemed incomplete, HCFA will work with the applicant to identify the remaining information necessary to either approve or deny the request.